

REMARKS

Claims 11-23 are pending in this application. By this Amendment, claims 12-19 are amended and new claims 20-23 are added. Claim 16 is amended to be in independent form and support for new claims 20-23 may be found at least in claims 12-15, respectively. Moreover, claim 18 is amended to correspond with the amendments to claim 16, and claims 12-15, 17 and 19 are amended to correct informalities. No new matter is added by the above amendments. In view of at least the following, allowance is respectfully requested.

The status claim identifiers do not identify any of the claims as "withdrawn" because (1) the Examiner has not yet withdrawn any claims and as such Applicants cannot identify any of the claims as withdrawn; and (2) Applicants believe a Restriction Requirement and/or Election of Species Requirement would be improper for the reasons discussed below.

I. Restriction Requirement

In reply to the May 9, 2008 Restriction Requirement, Applicants' provisionally elect Group II, claims 11-15, 16, 17 and 20-23, with traverse. At least claim 11 is generic and as such claim 11, as well as claims 12-15 dependent therefrom, is included with the elected claims. Applicants respectfully submit that at least claims 16 and 17, as indicated by the Examiner, at least new claims 20-23, and at least claims 18 and 19, as amended, are drawn to the subject matter of Group II. Applicants further respectfully submit that claim 11 is generic to at least Groups I and II, and that a search for the subject matter recited in at least claim 16 would include a search for the subject matter recited in claim 11.

Applicants further respectfully submit that there exists *a priori* unity of invention with respect to claims 11-17 and 20-23, by virtue of the fact that claims 12-15 depend from claim 11 and claims 17 and 20-23 depend from claim 16, and by virtue of the fact that claim 16 includes all of the features of claim 11. As stated in Chapter 10.06 of the ISPE (*International Search and Preliminary Examination Guidelines*):

Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By “dependent” claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4).

Therefore, because claim 16 includes all of the features of claim 11, dependent claims, whether depending from claim 11 or claim 16, share at least each element or technical feature of independent claim 11. ISPE 10.07 further provides:

If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.

Thus, for the present application, a lack of unity of invention may only be determined *a posteriori*, or in other words, after a search of the prior art has been conducted and it is established that all the elements of the independent claim are known. See ISPE 10.07 and 10.08.

The Office Action does not establish that each and every element of independent generic claim 11, or of claim 16 is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement at this time is improper.

Accordingly, withdrawal of the Restriction Requirement is respectfully requested.

Furthermore, there would be no burden on the Examiner to search all of the features of claims 11-15 because these features are found in claims 16, 17 and 20-23, respectively.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable allowance of the pending claims is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Amy A. Thekdi
Registration No. 62,199

JAO:AAT/ccs

Date: June 9, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--